

**ORDINANCE AMENDING THE GENERAL FUND AND SPECIAL REVENUE FUND
BUDGETS**

The City of Troy, convened in City Council, ordains as follows:

Section 1. The establishment of a Capital project entitled “2018 Street Paving Program”

Section 2. The City of Troy 2018 budget is herein amended as set forth in Schedule A entitled:

December 2018 Budget Amendments – CDBG Loan Payback

which is attached hereto and made a part hereof

Section 3. This act will take effect immediately.

Approved as to form November 28, 2018

James A. Caruso, Corporation Counsel

MEMO IN SUPPORT

Several years ago the City of Troy loaned \$25,433 to Minissale's Wine Cellar ("the Company") as part of the funding provided through the Community Develop Block Grant (CDBG) Program. To date the City has not received payment from the Company for the loan provided.

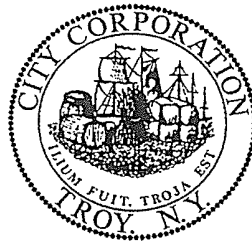
When issuing loans through the CDBG program there is a jobs creation requirement as part of the program, which was not met by the Company.

The City has spent several months working with The United States Department of Housing and Urban Development ("HUD") to attempt to resolve this matter without having to pay the monies back, including a detailed letter sent in July of 2018 outlining the history of this project. A copy of this letter is attached with this memo in support.

HUD has determined that the City did not perform the proper level of due diligence when monitoring this loan to ensure that the jobs were created. Therefore the monies in the amount of \$25,433 need to be paid back. In discussing how the payback is to occur HUD has told the City that the City's General Fund needs to pay the CDBG Program the monies and then the funds can be used on a CDBG eligible project.

This ordinance transfers the funds as instructed by HUD and brings the City into compliance with this issue related to HUD.

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July 27, 2018

William T. O'Connell, Director
 U.S. Department of Housing and Urban Development
 Buffalo Office
 465 Main Street 2nd floor
 Buffalo, New York 14203-1780

RE: Minissale's Wine Cellar IDIS #978
 Corrective Action and Demonstration of Due Diligence.

Dear Mr. O'Connell:

The City of Troy received CDBG funding back in 2008 in the amount of \$2,035,786.00 and of which they allocated \$65,000.00 to the City of Troy's Planning and Economic Development Department. This funding was used for a 50/50 Matching Grant Façade Program to spur economic growth within the City.

In May of 2010 Minissale's Wine Cellar applied for the 50/50 matching grant program. Phillip and Theodore Minissale (co-owners) had taken advantage of their restaurants operation and moved into the tomato sauce retail market. This funding was to help with their expansion of the operation by adding an addition to the restaurant to house, manufacture and the distribution of their sauce. As part of their application, Phillip and Theodore stated that the manufacturing staff of the sauce, spice rub and eventually salad dressing aspect of the business will grow by two people initially with the expansion and then a third person would be hired when the sales volume warranted it. They also stated that they would be hiring unskilled laborers that would be solicited from the immediate neighborhoods and they would start them off at minimum wage and then will be given raises as the staff members productivity improved.

In January 2011, the Board of Directors of the Troy Local Development Corporation approved Minissale's application and awarded them \$25,433.00 of the 50/50 matching funds grant. The Board also stipulated in the Grant Agreement that from and after the date of execution (January 25, 2011) of the agreement and for a period of ten (10) years the owners shall not make any changes in or alterations to the property without consent of the City's Planning Department and they must notify in writing to the City of Troy, Planning Department, of any pending or expected sale or transfer of the said property at least one week in advance of any such sale or transfer.

In March of 2011 Phillip and Theodore went in front of the City's Planning Board for site plan review of their expansion and were approved by the Board Members. Then the City's Code Enforcement

Department issued the permits and the construction had begun. The Project was completed and The Code Enforcement Department did their final inspection in July 2011 and issued a C of O for them to open and begin operations of the business. After reviewing all the Documentation and paid invoices submitted to the Planning Department by Phillip and Theodore, they were found to be in compliance with the program and they were issued their reimbursement in the amount of \$25,433.00.

After one year of operation the Planning Department then sends out a CDBG Annual Report Review Form that they must fill out and return to the Planning Department. In the Annual report they must state if they have met their objective of Job Creation along with continued proof of Insurance. The Planning Department follows up every year after until the objective has been met. The following is an overview of those Annual Reports from the Planning Departments Files;

2012 – Annual Report came back from applicant with zero jobs listed and an explanation that they had been trying to expand their tomato sauce brand and it has not been successful. They are hopeful the sales will start to pick up.

2013- A follow up phone call was made in May to see if there had been any new hires and as of this date no new hires were made. The annual report came back from the applicant at the end of 2013 still showing no new jobs created, only retained. Again a phone call was placed to the Applicants and they stated that they lost one of their largest carriers and are working to find a new store to sell their products.

2014- Conversation took place every 3-4 months with the applicant about their products and job creation status. We then had the CDBG Supervisor (Tim Mattice) get in contact with the applicants about having to meet their job creation. The CDBG Supervisor then gave us the impression that the issue was resolved and didn't need follow up.

2015 – The Planning Department thought the case was closed so no contact was made.

2016 – In August, Minissale's Wine Bar and Restaurant leased their facility to another individual without contacting or obtaining written consent from the City's Planning Department. The new CDBG Supervisor (Carolyn Skriptshak) was then informed and made contact with the Applicants. The Applicant stated that they are still very much in business and will be expanding operations due to increased sales because of this and their intention is to create 2 new jobs in the future.

2017 – Steve Strichman, the Commissioner of Planning reached out to the applicants and they mentioned that they hired a broker to push the sauce and a driver to help with the distribution. Unfortunately the applicant stated they had to let both go after a couple of months as there were not enough sales to maintain the new hires.

2018 – (May) Steve Strichman received a call today from a newspaper reporter asking if the City had any comments on Minissale's selling their facility. Steve tried numerous times to reach the applicants to no avail. Steve then went to the City's Attorney and proceeded to tell him what had happened. The City's Attorney was able to make contact with the applicant and told them that they would have to pay back the grant and the applicant basically said they don't have any money and that they will be filing for Bankruptcy. The City has commenced legal action.

The City's Planning Department feels that they have done everything possible to get the applicant to meet its' objective but has been unsuccessful.

The City is in a position where paying back the \$25,433.00 is not feasible to the City Budget at this time. We are asking that HUD finds that the City has done enough due diligence to wave these funds and allow us to close the account.

Should you have any further questions regarding this case please contact me at (518) 279-7150.

Very truly yours,

A handwritten signature in cursive script that reads "Carolin Skriptshak".

Carolin Skriptshak
Program Supervisor

cc: Elizabeth McClam, CPD Rep
Patrick Madden, Mayor
Andrew Piotrowski, Deputy City Comptroller
Steve Strichman, Planning Commissioner

Schedule A

ORD#133

December 2018 Budget Amendments – CDBG Loan Payback

Department	Account No.	Description	Original Budget*	Change (+ / -)	Revised Budget
General Fund					
Contingency	A.1990.0418.0000.0000	Contingency	201,213.00	(25,433.00)	175,780.00
Interfund Transfers	A.9950.0901.0000.0000	Special Revenue Fund	0.00	<u>25,433.00</u>	25,433.00
Net Impact On General Fund				<u><u>0.00</u></u>	
Special Revenue Fund - CDBG					
Revenues					
CDBG	CD.0000.5031.2000.0000	Interfund Transfers	0.00	<u>25,433.00</u>	25,433.00
Total Special Revenue Fund Budget Revenue Increase				<u><u>25,433.00</u></u>	
Expenditures					
CDBG	CD.2017.0400.2000.3021	Lansingburgh Target Area	686,349.55	<u>25,433.00</u>	711,782.55
Total Special Revenue Fund Budget Expenditure Increase				<u><u>25,433.00</u></u>	
Net Impact On Special Revenue Fund				<u><u>0.00</u></u>	

* Or as previously amended